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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte IMRAN SHARIF, JOHN BREMSTELLER,
GLEN EDWARD IVEY, and WILLIAM KNAPP

Appeal 2008-0057
Application 09/902,986
Technology Center 2100

Decided: June 30, 2008

Before LANCE LEONARD BARRY, HOWARD B. BLANKENSHIP, and CAROLYN D. THOMAS, *Administrative Patent Judges*.

BLANKENSHIP, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of the sole claim in the application. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Appellants describe a web browser application implemented in an "Internet appliance" for accessing information on the Internet. (Abstract.) Claim 1 is reproduced below.

1. A user interface method in a browser application implemented in an Internet appliance for accessing information on the Internet, the Internet appliance having a display device and using a reduced-keyset user interface device for user input, the reduced-keyset user interface device having a plurality of keys consisting of direction keys, numeric keys, and a number of function keys, the method comprising:

displaying a user interface screen on the display device, the screen being divided into a primary screen area for displaying information and at least a first and a second control area, the first control area containing one or more mode icons for selecting a mode of the browser application, the second control area containing one or more command icons depending on the selected mode;

in a navigate mode, displaying a plurality of interface elements in the primary screen area, each interface element representing a web page, and accessing one of the web pages by invoking a command icon or an interface element in response to user input through the use of the reduced-keyset user interface device;

in a browse mode, displaying page contents of a web page in the primary screen area, the web page including one or more interface elements, and further displaying different page contents by invoking a command icon or an interface element in response to user input through the use of the reduced-keyset user interface device; and

in the navigate and/or browse mode, dynamically displaying indications that associate each of one or more command icons and/or interface elements with a key of the reduced-keyset user interface device, and invoking a command icon and/or interface element in response to user input through the use of the associated key.

The Examiner relies on the following reference as evidence of unpatentability.

Istvan	US 2002/0060750 A1	May 23, 2002

Claim 1 stands rejected under 35 U.S.C. § 102(e) as being anticipated by Istvan. Istvan is a U.S. published application, based on a patent application filed February 16, 2001. Appellants' application has a filing date of July 11, 2001, and claims benefit of a U.S. provisional application filed July 11, 2000. Because Appellants do not contest the Examiner's position that Istvan is prior art under 35 U.S.C. § 102(e) (*see* App. Br. 3), for the purposes of this appeal we will presume the Istvan published application to be prior art.

Rather than repeat the rejection applied against claim 1, we refer to the Examiner's findings set forth in the Answer. Our discussion will focus on the points of disagreement between Appellants and the Examiner.

Although Appellants recognize that the recitation "Internet appliance" appears only in the preamble of process claim 1, that the claim makes no further reference to the "appliance," and that language in a claim preamble is "not usually construed to limit the claim," Appellants "request" that the preamble "limitation" be interpreted to limit the claim. (App. Br. 3-4.)

"The preamble of a claim does not limit the scope of the claim when it merely states a purpose or intended use of the invention." *In re Paulsen*, 30 F.3d 1475, 1479 (Fed. Cir. 1994). Appellants have not demonstrated why the preamble recitation of "Internet appliance" should be considered as limiting the process steps set forth by claim 1.

Appellants' arguments for patentability over Istvan thus reduce to the allegation that the reference describes a more complex system than Appellants', which does not show lack of anticipation in view of the open-ended form of instant claim 1. Appellants submit that claim 1 "defines a user interface that permits Internet access to be displayed on a connected television set, but the TV access is not controlled or even selected using the claim 1 user interface." (App. Br. 4.) The claim before us, however, does not preclude "TV access" being controlled or selected. The *claims* measure the invention. *See SRI Int'l v. Matsushita Elec. Corp.*, 775 F.2d 1107, 1121 (Fed. Cir. 1985) (en banc).

We also agree with the Examiner's position that, even were the "Internet appliance" recitation in the preamble a limitation, the Internet-enabled set top box described by Istvan is within the meaning of "Internet appliance."

Appellants' Specification describes, principally at pages 5 and 6, the characteristics of an "Internet appliance," which appear to be the same or similar to those of a set top box that is capable of connecting to a network such as the Internet. More important, however, we find no clear definition set forth in the disclosure that would serve to distinguish the term "Internet appliance" over the set top box described in the reference. The set top box Istvan describes is a non-PC Internet access device. (*Cf.* Spec. 2: 5-8 (indicating "Internet appliances" to be synonymous with "non-PC Internet access devices").)

We have considered all of Appellants' arguments in the briefs, but we are not persuaded of error in the Examiner's finding of anticipation. We thus sustain the rejection.

CONCLUSION

The rejection of claim 1 under 35 U.S.C. § 102(e) as being anticipated by Istvan is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

AFFIRMED

pgc

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